UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

V. Cr. No. 07-124-2T

KAREN LYNCH

SENTENCING MEMORANDUM

This Defendant Karen Lynch has pleaded guilty to Count 1 and Counts 15 through 19 of this Indictment, which charge her, in Count 1, with conspiracy to commit bank fraud and, in Counts 15 through 19, with bank fraud. The presentence investigation report calculates Defendant's advisory guideline range to be 8-14 months, which is in Zone C of the Sentencing Table. Because Defendant's advisory guideline range is in Zone C, the Sentencing Guidelines authorize this Court to impose a "split sentence", pursuant to which Defendant would be required to serve one-half of her sentence in prison, with the balance to be served in community confinement or home detention. See USSG Section 5C1.1(d)(2). Defendant submits this Memorandum in support of her request that this Court impose a sentence of home confinement as a substitute for imprisonment because of the nature and circumstances of the offense and the characteristics of the Defendant, pursuant to 18 USC Section 3553(a)(1); such a sentence is outside the advisory guideline system.

As the presentence investigation report indicates, Defendant is the 32 year old mother of three young children. She has lived in Rhode Island virtually all her life, and was raised in Cranston. According to her older sister, Sharon Lynch, "Karen … was an good student in high school and studied dance for six years." However, as a child, the Defendant was physically abused by her father and was sexually abused by a cousin for approximately a one-year period when she was about eight years old. She did not disclose the sexual abuse until she was 14 years old. At that time, her parents enrolled her in counseling at Caritas House in Pawtucket, where she attended counseling for approximately one year.

Defendant has had mental health treatment intermittently since she was seventeen years old for anxiety, depression, post traumatic stress disorder and obsessive compulsive disorder. She takes prescribed medication daily for anxiety.

Defendant graduated from high school and successfully completed a one year course of study to become a dental assistant; she has also obtained as a certificate as an x-ray technician. She was steadily employed in that field until she was required to have surgery for a herniated disc in August 2005. Nerve damage sustained in that surgery resulted in permanent numbness in her left foot and persistent back pain, which in all likelihood disable Defendant from future employment as a dental assistant. Defendant's employment since her back surgery has been intermittent and her financial situation is dire. The family survives on food stamps and financial assistance from Defendant's father.

Defendant's two younger children, six year old Rosemary Berrio and five year old John Berrio, have lived with their mother since birth. The children attend Veazie Street School in Providence, where Rosemary is in the first grade and John is enrolled in kindergarten. Their father, Juan Berrio, is in ICE custody in Plymouth County House of

Corrections, awaiting deportation. Mr. Berrio's deportation order is due to his three prior domestic assault convictions; this Defendant was the victim of each of these assaults.

The Defendant's oldest child, ten year old Andrew Dinis also lived with his mother his entire life, until November 2007, when his father obtained an ex parte order from the Rhode Island Family Court granting him custody. Defendant's financial difficulties rendered her unable to retain counsel to assist her in seeking the return of her son in the Family Court, and she was required to wait several months before a volunteer lawyer was assigned to represent her in that matter.

By all accounts, Defendant is "a good mother to her children … the children are always well provided for, and are very polite and good children". (Paragraph 43 of the Presentence Investigation Report) According to a character reference letter authored by Defendant's mother, Rosemary Lynch, "Karen … is a kind and loving daughter, mother and sister.… Her children are her life and she is theirs. They would be devastated without her." As another character reference letter indicates, "she is a woman of great compassion, cares deeply for her family; and is a devoted mother, putting her children's needs above her own."

In fashioning the appropriate sentence for this Defendant, the Court is obliged, pursuant to 18 USC Section 3553(a), to

> impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider –
>
> (1) the nature and circumstances of the offense and the history and characteristics of the defendant;
>
> 2) the need for the sentence imposed –

> A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;
>
> (B) to afford adequate deterrence to criminal conduct;
>
> (C) to protect the public from further crimes of the defendant; and
>
> D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

In this case, Defendant submits that a term of incarceration is not necessary either to deter Defendant from future misconduct or to protect the public from Defendant's future crimes, and that a term of home detention would be an appropriate substitute for imprisonment in this case. Defendant's young children are of tender years, and a short term of incarceration may well have an impact on their lives that is grossly disproportionate to any possible deterrent effect. Further, Defendant submits that this Court need not sentence her to a term of incarceration in order to impress upon her the seriousness of this offense. When questioned at the Providence Police Department by Special Agent Caroline O'Brien-Buster of the Secret Service and Detective David Marchant of the Providence Police on August 16, 2007, Defendant promptly gave a complete and voluntary written statement documenting her actions and admitting to this offense. Defendant was the first person charged in this Indictment to indicate an intention to plead guilty, and she was willing to assist the Government in the further investigation and prosecution of this case had such assistance been required.

In these unique circumstances, and in light of all the foregoing factors, Defendant submits that the ends of justice would be served and the Section 3553 factors satisfied by a sentence not requiring a term of imprisonment, and asks that this Court exercise its discretion to impose such a sentence.

KAREN LYNCH
Defendant
By Her Attorney,

/s/Judith Crowell, Esq. #1993
128 Dorrance Street
Fourth Floor
Providence, RI 02903
(401) 272-6600

CERTIFICATION

I hereby certify that on March 10, 2008, I forwarded a copy of this Memorandum via e-filing to AUSA Sandra Beckner.

/s/Judith Crowell, Esq.